

exception of VR 480-03-19.843.22 upon which action is deferred. The Federal regulations at 30 CFR part 946 codifying decisions concerning the Virginia program are being amended to implement this decision.

#### *EPA Concurrence*

Under 30 CFR 732.17(h)(11)(ii), the Director is required to obtain the written concurrence of the Administrator of the Environmental Protection Agency (EPA) with the respect to any provisions of a State program amendment which relate to air or water quality standards promulgated under the authority of the Clean Water Act (33 U.S.C. 1251 *et seq.*) or the Clean Air Act (42 U.S.C. 7401 *et seq.*). The Director has determined that this amendment contains no such provisions and that EPA concurrence is therefore unnecessary. As required by 30 CFR 732.17(h)(11)(i), the Director solicited EPA's comments on these changes; however, none were received.

#### *Effect of Director's Decision*

Section 503 of SMCRA provides that a State may not exercise jurisdiction under SMCRA unless the State program is approved by the Secretary. Similarly, 30 CFR 732.17(g) prohibits unilateral changes to an approved State program. In his oversight of the Virginia program, the Director will recognize only the statutes, regulations, and other materials approved by him, together with any consistent implementing policies, directives, and other materials.

#### **VI. Procedural Determinations**

##### *Compliance With the National Environmental Policy Act*

The Secretary has determined that, pursuant to section 702(d) of SMCRA, 30 U.S.C. 1292(d), no environmental impact statement need be prepared on this rulemaking.

##### *Executive Order No. 12291 and the Regulatory Flexibility Act*

On July 12, 1984, the Office of Management and Budget (OMB) granted OSM an exemption from sections 3, 4, 7, and 8 of Executive Order 12291 for actions directly related to approval or conditional approval of State regulatory programs. Therefore, this action is exempt from preparation of a regulatory impact analysis and regulatory review by OMB.

The Department of the Interior has determined that this rule will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule will not impose any new requirements

established by SMCRA and the Federal rules will be met by the State.

#### *Paperwork Reduction Act*

This does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3507.

#### **List of Subjects in 30 CFR Part 946**

Coal mining, Intergovernmental relations, Surface mining, Underground mining.

Dated: November 21, 1989.

Jeffrey D. Jarrett,

Acting Assistant Director, Eastern Field Operations.

For reasons set out in the preamble, title 30, chapter VII, subchapter T of the Code of Federal Regulation is amended as set forth below.

#### **PART 946—VIRGINIA**

1. The authority citation for part 946 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

2. In § 946.15, a new paragraph (y) is added to read as follows:

##### **§ 946.15 Approval of regulatory amendments.**

\* \* \* \* \*

(y) The following amendments submitted to OSM on June 30, 1989 are approved effective upon promulgation of the revised rules by the State provided the rules adopted are identical to those submitted to OSM. Revisions to the Virginia coal surface mining regulations in chapter VR 480-03-19: 700.11, 764.15, 773.15, 779.19, 779.20, 780.14, 780.16, 783.19, 783.20, 784.20, 784.21, 785.14, 801.17, 816.97, 817.97, 840.11, 846, 846.2, 846.12, 846.14, 846.17, 846.18.

[FR Doc. 89-28122 Filed 11-30-89; 8:45 am]

BILLING CODE 4310-05-M

#### **DEPARTMENT OF DEFENSE**

##### **Office of the Secretary**

##### **32 CFR Part 198**

[DoD Directive 6035.2]

##### **DoD Medical Program Review Committee (MPRC)**

AGENCY: Department of Defense.

ACTION: Final rule.

**SUMMARY:** This document removes 32 CFR part 198. The overall effectiveness of the Planning Programming and Budgeting System (PPBS) was not enhanced by the requirements of 32 CFR part 198. The part has served the

purpose for which it was intended and is no longer required.

**EFFECTIVE DATE:** November 27, 1989.

##### **FOR FURTHER INFORMATION CONTACT:**

Ms. Linda M. Bynum, Correspondence and Directives Directorate, Washington, DC 20301-1155, telephone 202-697-4111.

##### **SUPPLEMENTARY INFORMATION:**

##### **List of Subjects in 32 CFR Part 198**

Organization and functions, Health care.

##### **PART 198—DoD MEDICAL PROGRAM REVIEW COMMITTEE (MPRC)—[REMOVED]**

Accordingly, title 32, chapter I, is amended by removing part 198.

Dated: November 27, 1989.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer Department of Defense.

[FR Doc. 89-28130 Filed 11-30-89; 8:45 am]

BILLING CODE 3010-01-M

#### **DEPARTMENT OF VETERANS AFFAIRS**

##### **38 CFR Part 4**

##### **Schedule for Rating Disabilities; Diseases of the Peripheral Nerves**

AGENCY: Department of Veterans Affairs.

ACTION: Final rule; correction.

**SUMMARY:** The Department of Veterans Affairs (VA) is correcting previously published information concerning the Schedule for Rating Disabilities table for Diseases of the Peripheral Nerves.

**EFFECTIVE DATE:** November 24, 1989.

##### **FOR FURTHER INFORMATION CONTACT:**

Joel Drembus, Regulations Staff, Compensation and Pension Service (211B), Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-3005.

**SUPPLEMENTARY INFORMATION:** In 38 CFR 4.124a, the table of Diseases of the Peripheral Nerves was inadvertently misrepresented and is hereby corrected.

##### **List of Subjects in 38 CFR Part 3**

Disability benefits, Pensions, Veterans.

Dated: November 24, 1989.

Charles A. Fountaine, III,

Chief, Directives Management Division.

In 38 CFR part 4, Schedule for Rating Disabilities, the table in § 4.124a titled



Diseases of the Peripheral Nerves is revised to read as follows:

**§ 4.124a Schedule of ratings—neurological conditions and convulsive disorders.**

*Diseases of the Peripheral Nerves*

	Rating
Sciatic nerve.	
8520 Paralysis of:	
Complete; the foot dangles and drops, no active movement possible of muscles below the knee, flexion of knee weakened or (very rarely) lost...	80
Incomplete:	
Severe, with marked muscular atrophy	60
Moderately severe	40
Moderate	20
Mild	10
8620 Neuritis.	
8720 Neuralgia.	
External popliteal nerve (common peroneal).	
8521 Paralysis of:	
Complete; foot drop and slight droop of first phalanges of all toes, cannot dorsiflex the foot, extension (dorsal flexion) of proximal phalanges of toes lost; abduction of foot lost, adduction weakened; anesthesia covers entire dorsum of foot and toes	40
Incomplete:	
Severe	30
Moderate	20
Mild	10
8621 Neuritis.	
8721 Neuralgia.	
Musculocutaneous nerve (superficial peroneal).	
8522 Paralysis of:	
Complete; eversion of foot weakened	30
Incomplete:	
Severe	20
Moderate	10
Mild	0
8622 Neuritis.	
8722 Neuralgia.	
Anterior tibial nerve (deep peroneal).	
8523 Paralysis of:	
Complete; dorsal flexion of foot lost	30
Incomplete:	
Severe	20
Moderate	10
Mild	0
8623 Neuritis.	
8723 Neuralgia.	
Internal popliteal nerve (tibial).	
8524 Paralysis of:	
Complete; plantar flexion lost, frank adduction of foot impossible, flexion and separation of toes abolished; no muscle in sole can move; in lesions of the nerve high in popliteal fossa, plantar flexion of foot is lost	40
Incomplete:	
Severe	30
Moderate	20
Mild	10

	Rating
8624 Neuritis.	
8724 Neuralgia.	
Posterior tibial nerve.	
8525 Paralysis of:	
Complete; paralysis of all muscles of sole of foot, frequency with painful paralysis of a causalgic nature; toes cannot be flexed; adduction is weakened; plantar flexion is impaired	30
Incomplete:	
Severe	20
Moderate	10
Mild	10
8625 Neuritis.	
8725 Neuralgia.	
Anterior crural nerve (femoral).	
8526 Paralysis of:	
Complete; paralysis of quadriceps extensor muscles	40
Incomplete:	
Severe	30
Moderate	20
Mild	10
8626 Neuritis.	
8726 Neuralgia.	
Internal saphenous nerve.	
8527 Paralysis of:	
Severe to complete	10
Mild to moderate	0
8627 Neuritis.	
8727 Neuralgia.	
Obturator nerve.	
8528 Paralysis of:	
Severe to complete	10
Mild or moderate	0
8628 Neuritis.	
8728 Neuralgia.	
External cutaneous nerve of thigh.	
8529 Paralysis of:	
Severe to complete	10
Mild or moderate	0
8629 Neuritis.	
8729 Neuralgia.	
Ilio-inguinal nerve.	
8530 Paralysis of:	
Severe to complete	10
Mild or moderate	0
8630 Neuritis.	
8730 Neuralgia.	

[FR Doc. 89-28101 Filed 11-30-89; 8:45 am]  
BILLING CODE 8320-01-M

**38 CFR Part 21**

**RIN 2900-AD63**

**Veterans Education; Veterans' Employment, Training and Counseling Amendments of 1988**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Final regulations.

**SUMMARY:** The Veterans' Employment, Training and Counseling Amendments of 1988 contain several provisions which affect the Department of Veterans Affairs' (VA's) relationships with the State approving agencies (SAAs), and other provisions which affect the administration of the Veterans' Job Training Act (VJTA). This proposal will

better inform the public how VA intends to implement these provisions of law.

**EFFECTIVE DATES:** The amendments dealing with the duties of the Contracting Officer (§ 21.4154(f)) are effective November 3, 1989. VA is making all the other amendments to §§ 21.4150, 21.4151, 21.4152, 21.4153, 21.4154 and 21.7200, like the provisions of law they implement, retroactively effective on May 20, 1988. VA is making § 21.4155, like the provisions of law it implements, retroactively effective on May 20, 1988. VA is making the amendments to §§ 21.4612, 21.4622, 21.4630 and 21.4632, like the provisions of law they implement, retroactively effective on July 19, 1988. VA is making §§ 21.4623 and 21.4631 like the provisions of law they implement retroactively effective on July 19, 1988.

**FOR FURTHER INFORMATION CONTACT:** William G. Susling, Jr., Acting Assistant Director for Education Policy and Program Administration (225C), Vocational Rehabilitation and Education Service, Veterans Benefits Administration, Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, (202) 233-2092.

**SUPPLEMENTARY INFORMATION:** On pages 21230 through 21234 of the Federal Register of May 17, 1989, there was published a notice of intent to amend 38 CFR part 21 in order to implement several provisions of the Veterans' Employment, Training and Counseling Amendments of 1988. Interested people were given 28 days to submit comments, suggestions or objections.

VA received one letter concerning the proposal from an official of a State approving agency. The official commended VA for the way in which the provisions were written.

During an internal review VA noted that previous language which indicated that the Director of a VA field facility could withhold reimbursement from a State approving agency was inadvertently carried forward from the version of 38 CFR 21.4153(f) which has long been in effect. VA has recently decided to delegate this authority to the Contracting Officer rather than to the Director of a VA field facility. The final regulation reflects this. VA is making all the other regulations in the proposal final without change. VA finds that good cause exists for making the amendments to §§ 21.4153 and 21.4154 (other than those dealing with the duties of the Contracting Officer) and all the amendments to §§ 21.4150, 21.4151, 21.4152 and 21.7200 as well as the entire § 21.4155, like the



sections of the law they implement, retroactively effective on May 20, 1988. VA finds that good cause exists for making the amendments to §§ 21.4612, 21.4622, 21.4630 and 21.4632 as well as the entire §§ 21.4623 and 21.4631, like the provisions of law they implement, retroactively effective on July 19, 1988. To achieve the maximum benefit of this legislation for the affected individuals, State approving agencies and employers, it is necessary to implement these provisions of law as soon as possible. A delayed effective date would be contrary to statutory design; would complicate administration of these provisions of law; and might result in denial of services to a veteran who is otherwise entitled to them.

The Department of Veterans Affairs has determined that these amended regulations do not contain a major rule as that term is defined by E.O. 12291, entitled Federal Regulation. The regulations will not have a \$100 million annual effect on the economy, and will not cause a major increase in costs or prices for anyone. They will have no significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

The Secretary of Veterans Affairs has certified that these amended regulations will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act (RFA), 5 U.S.C. 601-612. Pursuant to 5 U.S.C. 605(b), the amended regulations, therefore, are exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

This certification can be made because §§ 21.4150, 21.4151, 21.4152, 21.4153, 21.4154 and 21.7200 affect only State approving agencies, and so have no economic impact on small entities, i.e., small businesses, small private and nonprofit organizations and small governmental jurisdictions.

On the other hand, the amendment to § 21.4622(a)(3) requires each employer to certify that the participating veteran will be provided with the full opportunity to participate in a personal interview with his or her case manager during the normal work day. This will have an economic effect on small entities.

If the interview is not made part of the training program, the employer could choose not to pay the trainee during the time he or she is being interviewed. In this situation the economic effect would consist of a possible loss of production while the trainee was being interviewed.

The employer could also choose to

pay the trainee during the time he or she is being interviewed. The economic effect in this instance would be somewhat greater since VA would reimburse the employer for only one-half of the veteran's wage.

However, since the average starting wage paid to veterans training under VJTA is less than \$10 per hour, and an interview would last, at most a few hours, VA does not believe that the economic impact would be significant. Furthermore, since the amended regulation is based upon the law, any economic impact would be caused by the underlying law.

In addition, some economic impact could potentially result from § 21.4623. That regulation permits VA to disapprove payments on behalf of new participants in a job training program if the percentage of veterans who successfully complete the program is disproportionately low due to deficiencies in the quality of the program. There is no evidence, however, indicating that repeated unsuccessful completion of training programs is a widespread problem. Furthermore, in order to give employers ample opportunity to demonstrate that a training program does not have a disproportionately low completion rate, the proposed regulation would generally allow the employer the opportunity to train at least five veterans in the program before the VA will examine the completion rate. Many programs have not yet had five trainees. Therefore, VA does not think that the regulations will have a significant economic impact upon a substantial number of small entities.

The Catalog of Federal Domestic Assistance numbers for the programs affected by these regulations are 64.111, 64.117, 64.120, 64.121 and 64.124.

#### List of Subjects in 38 CFR Part 21

Civil rights, Claims, Education, Grant programs—education, Loan programs—education, Reporting and recordkeeping requirements, Schools, Veterans, Vocational education, Vocational rehabilitation.

Approved: November 3, 1989.

Edward J. Derwinski,  
Secretary.

38 CFR part 21, Vocational Rehabilitation and Education, is amended as follows:

#### PART 21—[AMENDED]

1. In § 21.4150, paragraph (c) is revised to read as follows:

##### § 21.4150 Designation.

\* \* \* \* \*

(c) The provisions of 38 U.S.C. chapter 36 and the sections in this part which refer to the State approving agency will, with respect to a State, be deemed to refer to VA when that State:

(1) Does not have and fails or declines to create or designate a State approving agency, or

(2) Fails to enter into an agreement as provided in § 21.4153 of this part.

(Authority: 38 U.S.C. 1771(b)(1))

\* \* \* \* \*

2. In § 21.4151, paragraph (b) is revised to read as follows:

##### § 21.4151 Cooperation.

\* \* \* \* \*

(b) *State approving agency responsibilities.* State approving agencies are responsible for:

(1) Inspecting and supervising schools within the borders of their respective States;

(2) Determining those courses which may be approved for the enrollment of veterans and eligible persons;

(3) Ascertaining whether a school at all times complies with its established standards relating to the course or courses which have been approved; and

(4) Under an agreement with VA rendering services and obtaining information necessary for the Secretary's approval or disapproval under chapters 30 through 36, title 38, United States Code and chapters 106 and 107, title 10, United States Code, of courses of education offered by any agency or instrumentality of the Federal Government within the borders of their respective States.

(Authority: 38 U.S.C. 1772, 1773, 1774; Pub. L. 100-323)

3. In § 21.4152, paragraph (a) and the introductory text of paragraph (b) are revised to read as follows:

##### § 21.4152 Control by agencies of the United States.

(a) *Control of educational institutions and State agencies generally prohibited.* Except as provided in § 21.4155 of this part, no department, agency, or officer of the United States will exercise any supervision or control over any State approving agency or State educational agency, or any educational institution.

(Authority: 38 U.S.C. 1782; Pub. L. 100-323)

(b) *Authority retained by VA.* The provisions of paragraph (a) of this section do not restrict authority conferred on VA.

\* \* \* \* \*

4. In § 21.4153, paragraph (c)(2)(iii) is removed, paragraphs (c)(2)(i) and (c)(2)(ii) are redesignated as paragraphs



(c)(2)(ii) and (c)(2)(iii) respectively; paragraphs (a)(1), (c)(4)(ii), and (f) are revised and new paragraph (c)(2)(i) is added, so the revised and added text reads as follows:

**§ 21.4153 Reimbursement of expenses.**

(a) \* \* \*

(1) *Scope of contracts.* (i) If a State or local agency requests payment for service contemplated by law, and submits information prescribed in paragraph (e) of this section, VA will negotiate a contract or agreement with the State or local agency to pay (subject to available funds and acceptable annual evaluations) reasonable and necessary expenses incurred by the State or local agency in—

(A) Determining the qualifications of educational institutions and training establishments to furnish programs of education to veterans and eligible persons,

(B) Supervising educational institutions and training establishments, and

(C) Furnishing any other services VA may request in connection with the law governing VA education benefits.

(ii) VA will take into account the results of annual evaluations carried out under § 21.4155 of this part when negotiating the terms and conditions of the contract or agreement.

(Authority: 38 U.S.C. 1774, 1774(a); Pub. L. 100-323)

\* \* \* \* \*

(c) \* \* \*

(2) \* \* \*

(i) Reimbursement will be made under the terms of the contract for travel of personnel engaged in activities in connection with the inspection, approval or supervision of educational institutions, including—

(A) Travel of personnel attending training sessions sponsored by VA and the State approving agencies.

(B) Expenses of attending out-of-State meetings and conferences only if the Director, Vocational Rehabilitation and Education Service, authorizes the travel.

(Authority: 38 U.S.C. 1774; Pub. L. 100-323)

\* \* \* \* \*

(4) \* \* \*

(ii) The Contracting Officer has approved the subcontract in advance.

(Authority: 38 U.S.C. 1774; Pub. L. 94-502, Pub. 95-902)

\* \* \* \* \*

(f) *Contract compliance.* Reimbursement under each contract or agreement is conditioned upon compliance with the standards and provisions of the contract and the law. If the Contracting Officer determines that the State has failed to comply with the

standards or provisions of the law or with terms of the reimbursement contract, he or she will withhold reimbursement for claimed expenses under the contract. If the State disagrees, the State may request the Contracting Officer to reconsider his or her decision or may initiate action under the Disputes clause of the contract. See 48 CFR 801.602.

(Authority: 38 U.S.C. 1774)

\* \* \* \* \*

5. In § 21.4154, paragraphs (a) and (b)(2) are revised to read as follows:

**§ 21.4154 Report of activities.**

(a) *State approving agencies must report their activities.* Each State approving agency entering into a contract or agreement under § 21.4153 of this part must submit a report of its activities to VA. The report may be submitted monthly or quarterly by the State approving agency as provided in the contract or agreement.

(Authority: 38 U.S.C. 1774; Pub. L. 100-323)

(b) \* \* \*

(2) Shall detail the activities of the State approving agencies under the agreement or contract during the preceding month or quarter, as appropriate;

(3) May include, at the option of the State approving agency a cumulative report of its activities from the beginning of the fiscal year to date;

(Authority: 38 U.S.C. 1774; Pub. L. 100-323)

\* \* \* \* \*

6. Section 21.4155 is added to read as follows:

**§ 21.4155 Evaluations of State approving agency performance.**

(a) *Annual evaluations required.* (1) VA shall conduct in conjunction with State approving agencies an annual evaluation of each State approving agency. The evaluation shall be based on standards developed by VA with State approving agencies. VA shall provide each State approving agency an opportunity to comment upon the evaluation.

(2) VA shall take into account the result of the annual evaluation of a State approving agency when negotiating the terms and conditions of a contract or agreement as provided in § 21.4153(a) of this part.

(Authority: 38 U.S.C. 1774(a); Pub. L. 100-323)

(b) *Functional supervision of State approving agencies required.* VA shall exercise functional supervision over the provision of course-approval services by State approving agencies under this section.

(1) Functional supervision includes, but is not limited to:

(i) Providing technical assistance to State approving agency personnel with respect to carrying out their course-approval duties;

(ii) Checking for compliance with VA regulations regarding the provision of services under §§ 21.4150 through 21.4154 of this part; and

(iii) Bringing matters which require corrective action to the attention of State approving agency personnel who have authority over policy, procedures, and staff.

(2) Functional supervision does not include:

(i) Hiring, firing, disciplining or issuing directives to an employee of a State approving agency; and

(ii) Making regulations, changing procedure or establishing internal policies for a State approving agency.

(Authority: 38 U.S.C. 1774A; Pub. L. 100-323)

(c) *Development of a training curriculum.* (1) VA shall cooperate with State approving agencies in developing and implementing a uniform national curriculum, to the extent practicable, for—

(i) Training new employees of State approving agencies, and

(ii) Continuing the training of the employees of the State approving agencies.

(2) VA with the State approving agencies shall sponsor the training and continuation of training provided by this paragraph.

(Authority: 38 U.S.C. 1774A; Pub. L. 100-323)

(d) *Development, adoption and application of qualification and performance standards for employees of State approving agencies.* (1) VA shall:

(i) Develop with the State approving agencies prototype qualification and performance standards;

(ii) Prescribe those standards for State approving agency use in the development of qualification and performance standards for State approving agency personnel carrying out approval responsibilities under a contract or agreement as provided in § 21.4153(a) of this part; and

(iii) Review the prototype qualification and performance standards with the State approving agencies no less frequently than once every five years.

(2) In developing and applying standards described in paragraph (d)(1) of this section, a State approving agency may take into consideration the State's merit system requirements and other local requirements and conditions.



However, no State approving agency may develop, adopt or apply qualification or performance standards that do not meet the requirements of paragraph (d)(3) of this section.

(3) The qualification and performance standards adopted by the State approving agency shall describe a level of qualification and performance which shall equal or exceed the level of qualification and performance described in the prototype qualification and performance standards developed by VA with the State approving agencies. The State approving agency may amend or modify its adopted qualification and performance standards annually as circumstances may require.

(4) VA shall provide assistance in developing these standards to a State approving agency that requests it.

(5) After November 19, 1989, each State approving agency carrying out a contract or agreement with VA under § 21.4153(a) shall:

(i) Apply qualification and performance standards based on the standards developed under this paragraph, and

(ii) Make available to any person, upon request, the criteria used to carry out its functions under a contract or agreement entered into under § 21.4153(a) of this part.

(6) A State approving agency may not apply these standards to any person employed by the State approving agency on May 20, 1988, as long as that person remains in the position in which the person was employed on that date.

(Authority: 38 U.S.C. 1774 A(b); Pub. L. 100-323)

7. In § 21.4612, paragraph (c)(2) is revised to read as follows:

#### § 21.4612 Applications and certifications.

(c) \*\*\*

(2) A certificate expires 90 days from the date on which it is furnished to the veteran.

(i) VA may renew a certificate or grant a further certificate for a veteran who has voluntarily terminated a job training program or who has been involuntarily terminated from a job training program only when:

(A) The provisions of paragraph (b) of this section are met, and

(B) The Department of Labor has assigned a case manager for the veteran.

(ii) VA may renew a certificate or grant a further certificate for any other veteran when the provisions of paragraph (b) of this section are met.

(iii) A renewed certificate or further certificate expires 90 days from the date on which it is furnished to the veteran.

(Authority: Pub. L. 98-77, sec. 5, Pub. L. 98-543, sec. 212, Pub. L. 100-323, sec. 11)

8. In § 21.4622, paragraphs (a)(3) introductory text and (a)(3) (xv) and (xvi) are revised, and paragraphs (a)(3) (xvii) and (xviii) are added, so the revised and added text reads as follows:

#### § 21.4622 Employer applications for approval.

(a) \* \* \*

(3) In applying for approval of a job training program in the form prescribed by the Secretary of Veterans Affairs, the employer will certify:

\* \* \* \* \*

(xv) That the employer, before the veteran's entry into training will:

(A) Furnish the veteran with a copy of the certification described in this paragraph, and

(B) Obtain and retain the veteran's signed acknowledgement of having received the certification;

(xvi) That the employer is in compliance with the following laws and all Federal Regulations adopted pursuant to those laws:

(A) Title VI of the Civil Rights Act of 1964;

(B) Title IX of the Education Amendments of 1972;

(C) Section 504 of the Rehabilitation Act of 1973; and

(D) The Age Discrimination Act of 1975;

(xvii) That the employer will provide each participating veteran for whom a case manager has been assigned by the Department of Labor with the full opportunity to participate in a personal interview with the veteran's case manager during the veteran's normal work day; and

(xviii) The information the employer is required to certify under part 44 of this chapter concerning nonprocurement debarment and suspension.

(Authority: Pub. L. 98-77, secs. 6 and 7, Pub. L. 100-323, sec. 11; 20 U.S.C. 1681; 29 U.S.C. 794; 42 U.S.C. 2000d-1, 42 U.S.C. 6102)

\* \* \* \* \*

9. Section 21.4623 is added to read as follows:

#### § 21.4623 Disapproval of new program entries.

(a) *Payments on behalf of new participants may be disapproved.* The Director of a VA field facility, or the Director, Vocational Rehabilitation and Education Service, as appropriate, may disapprove entry into an employer's job training program under the Veterans' Job Training Act, by veterans who had not begun the job training program on the date of notice to the employer of such disapproval when the Director finds that the rate of veterans'

successful completion of the job training program is disproportionately low as a result of deficiencies in the quality of the job training program.

(Authority: Pub. L. 98-77, sec. 11, Pub. L. 100-323, sec. 11(b))

(b) *Deficiencies in the job training program.* (1) In determining whether any completion rate is disproportionately low because of deficiencies in the quality of a job training program VA will take into account appropriate data including—

(i) Quarterly data provided by the Secretary of Labor with respect to:

(A) The number of veterans who:

(1) Receive counseling in connection with training under the Veterans' Job Training Act, and

(2) Participate in job training under the Veterans' Job Training Act,

(B) The reasons for veterans' failure to complete job training under the Veterans' Job Training Act; and

(C) Data compiled through the particular employer's compliance survey.

(Authority: Pub. L. 98-77, sec. 11(b), Pub. L. 100-323, sec. 11)

(c) *Successful completion rate for job training programs.* VA will determine whether the successful completion rate for a job training program is disproportionately low as follows.

(1) VA will determine the number of veterans who have either completed the job training program or terminated that program either voluntarily or involuntarily. If this number is four or less, VA will consider that the completion rate of the job training program is not disproportionately low unless there is strong evidence to the contrary.

(2) If the number determined in paragraph (c)(1) of this section is five or more or if the number is less than five and there is strong evidence that there are deficiencies in the quality of the program, VA will:

(i) Calculate a percentage by dividing the number of veterans who have completed the job training program by the number of veterans who have either completed that program or terminated that program;

(ii) Calculate a second percentage by dividing the number of veterans who have ever completed any job training program approved for veterans' training under the Veterans' Job Training Act by the number of veterans who have either completed one of these job training programs or terminated one of these job training programs; and



(iii) Compare the two percentages. If the percentage determined in paragraph (c)(2)(i) of this section is less than one-half the percentage determined in paragraph (c)(2)(ii) of this section, the successful completion rate of the job training program is low, and shall be considered with the data described in paragraph (b) of this section in determining whether it is disproportionately low.

(Authority: Pub. L. 98-77, sec. 11(b), Pub. L. 100-323, sec. 11)

(d) *Notification.* If after considering the data described in paragraphs (b) and (c) of this section the Director of the VA field activity, or the Director, Vocational Rehabilitation and Education Service, as appropriate, determines that new entries in a program of job training under the Veterans' Job Training Act should be disapproved, as provided in paragraph (a) of this section, he or she shall notify the employer of the disapproval. The notice shall be by certified or registered letter, return receipt requested, and shall include:

(1) A statement of the reasons for VA's action, and

(2) Notice of the employer's right to appeal to the Board of Veterans' Appeals, and the right to a hearing.

(Authority: Pub. L. 98-77, sec. 11, Pub. L. 100-323, sec. 11(b))

(e) *Period of disapproval.* (1) A disapproval as described in paragraph (a) of this section shall remain in effect until the Director of the VA field facility of jurisdiction or the Director, Vocational Rehabilitation and Education Service, as appropriate, determines that the employer has taken adequate remedial action.

(2) Payments will be made on behalf of new participants only for training which occurs after the date on which the Director determines that remedial action has been taken.

(Authority: Pub. L. 98-77, sec. 11, Pub. L. 100-323, sec. 11)

10. In § 21.4630, paragraph (c) is removed.

11. Section 21.4631 is added to read as follows:

**§ 21.4631 Job readiness skills development and counseling.**

(a) *Employment counseling services.* At the request of a veteran who is eligible to participate in a job training program, the VA will provide the veteran with employment counseling services to assist him or her in selecting a suitable job training program.

(Authority: Pub. L. 98-77, Pub. L. 100-323, sec. 14(a))

(b) *Job readiness skills development and counseling.*—(1) *Purpose.* The program of job readiness skills development and counseling services is designed to assist veterans in need of such assistance in finding, applying for, and successfully participating in a suitable job training program under the Veterans' Job Training Act.

(2) *Eligibility.* A veteran with a valid certificate furnished pursuant to § 21.4612(c) of this part may participate in a program of job readiness skills development and counseling services if—

(i) Staff in the Department of Labor or the Department of Veterans Affairs as described in paragraph (b)(7) of this section find that the veteran needs such assistance, and

(ii) Funds are available to provide the veteran with a program of job readiness skills development and counseling services through contracts with appropriate service providers if the services needed cannot be furnished by VA or Department of Labor staff.

(3) *Scope of services.* (i) Job readiness skills development includes finding training and employment opportunities, completing job applications, functioning in an interview and other services and other assistance.

(ii) Counseling services include counseling services to assist in selecting suitable training opportunities and using appropriate methods of seeking, applying for and maintaining employment.

(4) *Providing services.* (i) VA and Department of Labor staff will provide job readiness skills development and counseling services to the veteran if such regular staff services are sufficient for the veteran to participate successfully in a job training program under the Veterans' Job Training Act.

(ii) If VA determines that the regular services of VA and Department of Labor staff are not sufficient for the veteran to participate successfully in a job training program under the Veterans' Job Training Act, the veteran may be placed in a program with service providers under contract to VA. This determination will be based upon a written certification by VA and Department of Labor staff of the need for assistance through a service provider under contract to VA.

(5) *Facilities with which contracts may be negotiated.* VA will enter into contracts only with established agencies, organizations, individuals and programs which have a demonstrated capacity to provide these services;

(6) *Approval of programs.* VA will approve programs of job readiness skills development and counseling in the same

manner as under §§ 21.290, 21.292 and 21.294 of this part.

(7) *Staff.* For the purposes of making the determinations required by paragraph (b)(2) of this section; providing job readiness skills development and counseling services and making the written certification of the need for assistance from a service provider required by paragraph (b)(4) of this section; the staff of VA and the Department of Labor is limited to—

(i) Counseling psychologists and vocational rehabilitation specialists in the Vocational Rehabilitation and Counseling Division of VA field facilities, or

(ii) Local Veterans' Employment Representatives and Disabled Veterans' Outreach Program Specialists in the State Employment agencies.

(Authority: Pub. L. 98-77, Pub. L. 100-323, sec. 14)

12. In § 21.4632, the heading, introductory text, and paragraph (e)(2) (i) and (ii) are revised to read as follows:

**§ 21.4632 Payment restrictions.**

VA shall not make payments to an employer if the job training program has not been approved as required by § 21.4622(b) of this part, or the veteran does not meet the eligibility requirements found in § 21.4610 of this part, or the provisions of § 21.4623 of this part prohibit payments to an employer on behalf of a veteran, or the payment would be for training subsequent to withdrawal of program approval under § 21.4624 of this part, or approval of a veteran's entrance into training must be withheld or denied due to a lack of funds. Payments made to employers on behalf of veterans in training shall be made in accordance with the provisions of this section.

(e) \* \* \*

(2) \* \* \*

(i) On behalf of any veteran who initially applies for a job training program after September 30, 1989;

(Authority: Pub. L. 98-543, sec. 212; Pub. L. 99-108; Pub. L. 99-238, sec. 201(e); Pub. L. 100-77, sec. 901(b); Pub. L. 100-227, Sec. 201; Pub. L. 100-323, sec. 17)

(ii) For any job training program which begins after March 31, 1990;

(Authority: Pub. L. 98-543, sec. 212; Pub. L. 99-108; Pub. L. 99-238, sec. 210(e); Pub. L. 100-77, sec. 901(b); Pub. L. 100-323, sec. 17)

13. In § 21.7200, paragraphs (d) and (e) are revised and paragraph (f) is added, so the revised and added text reads as follows:



**§ 21.7200 State approving agencies.**

(d) Section 21.4153—Reimbursement of expenses;

(e) Section 21.4154—Report of activities; and

(f) Section 21.4155—Evaluation of State approving agency performance.

(Authority: 38 U.S.C. 1434, 1770, 1771, 1772, 1773, 1774, 1774A; Pub. L. 98-525, Pub. L. 100-323)

[FR Doc. 89-28067 Filed 11-30-89; 8:45 am]

BILLING CODE 8320-01-M

**ENVIRONMENTAL PROTECTION AGENCY****40 CFR Part 799**

[OPTS-42088F; FRL 3661-8]

RIN 2070-AB94

**Office of Solid Waste Chemicals Test Rules; Technical Amendments**

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule; technical amendment.

**SUMMARY:** This document corrects a test rule under 40 CFR 799.5055 on hazardous waste constituents, published in the Federal Register of June 15, 1988 (53 FR 22300). This action is necessary to correct a Chemical Abstracts Service (CAS) number reference to trichloromethanethiol testing requirements.

**EFFECTIVE DATE:** December 1, 1989.

**FOR FURTHER INFORMATION CONTACT:**

Michael M. Stahl, Director, Environmental Assistance Division (TS-799), Office of Toxic Substances, Rm. E-543B, 401 M St., SW., Washington, DC 20460. (202) 554-1404, TDD (202) 554-0551.

**SUPPLEMENTARY INFORMATION:** EPA is correcting 40 CFR 799.5055 (53 FR 22300) by correcting the hazardous waste constituent trichloromethanethiol CAS designation to 75-70-7 from the incorrectly listed CAS Number 594-42-3.

In accordance with section 4(a) of the Toxic Substances Control Act (TSCA), a rule was promulgated under 40 CFR 799.5055 (53 FR 22300; June 15, 1988) to require health effects and/or chemical fate testing for 24 chemicals that are hazardous waste constituents. One of these chemicals, trichloromethanethiol was designated for hydrolysis testing, soil adsorption testing and subchronic testing.

EPA, in response to an August 1989 telephone inquiry from DuPont, reviewed the CAS Number designation

made in the final rule publication in the Federal Register. From this review, EPA determined that the correct CAS Number was 75-70-7. EPA also determined that the transposition of the incorrect CAS Number was apparently made at the time of the preparation of the original candidate testing list from the RCRA Hazardous Wastes List (40 CFR part 261 Appendix VIII.).

Because the error in CAS Number designation was the result of a transcription error by EPA, public comment is not necessary. The chemical name has been correctly identified in the OSW Final Test Rule so that there should have been no confusion as to the identity of the chemical to be tested. EPA finds that making this deletion effective immediately will relieve administrative and testing burdens, and that good cause exists to make the amendment immediately effective.

Accordingly, the table in 40 CFR 799.5055(c) is corrected by deleting the entries for "Trichloromethanethiol, CAS No. 594-42-3" and replacing them with "Trichloromethanethiol, CAS No. 75-70-7".

**Other Regulatory Requirements****A. Executive Order 12291**

Under Executive Order 12291, EPA must judge whether a rule is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. EPA has determined that this technical amendment is not major because it does not meet any of the criteria set forth in section 1(b) of the Order; i.e., it will not have an annual effect on the economy of at least \$100 million, will not cause a major increase in prices, and will not have significant adverse effect on competition or the ability of U.S. enterprises to compete with foreign enterprises.

**B. Regulatory Flexibility Act**

Under the Regulatory Flexibility Act (15 U.S.C. 601, *et seq.*, Pub. L. 96-354, September 19, 1980), EPA is certifying that this technical amendment will not have a significant impact on a substantial number of small businesses because the chemical name has been correctly identified in the OSW Final Test Rule so that there should have been no confusion as to the identity of the chemical to be tested.

**C. Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.*, EPA has determined that there are not any "collection of information" requirements as result of this amendment to the rule. Therefore, this technical amendment was not submitted to OMB for approval.

**List of Subjects in 40 CFR Part 799**

Chemicals, Chemical exports, Environmental protection, Hazardous substances, Reporting and recordkeeping requirements, Testing.

Dated: November 22, 1989.

Linda J. Fisher,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR chapter I, part 799 is amended as follows:

**PART 799—[AMENDED]**

1. The authority citation continues to read as follows:

Authority: 15 U.S.C. 2603.

2. In § 799.5055(c) by revising the entry for "Trichloromethanethiol" to read as follows:

**§ 799.5055 Hazardous waste constituents to testing.**

\* \* \* \* \*

(c) \* \* \*

Chemical name	CAS No.	Required testing under paragraphs (d) and (e) of this section
Trichloromethanethiol .....	75-70-7.	(d)(1), (2), (e)(1)

\* \* \* \* \*

[FR Doc. 89-28172 Filed 11-30-89; 8:45 am]  
BILLING CODE 5560-50-D

**DEPARTMENT OF THE INTERIOR****Bureau of Land Management****43 CFR Public Land Order 6757**

[NM-940-00-4214-10; NM NM 015227]

**Partial Revocation of Public Land Order No. 1038; New Mexico**

**AGENCY:** Bureau of Land Management, Interior.

**ACTION:** Public land order.

**SUMMARY:** This order revokes a public land order insofar as it affects 24,687 acres of National Forest land withdrawn for use by the U.S. Forest Service in connection with the Southwestern Congregation Churches Organization Camp and Recreation Area in the Gila National Forest. The land is no longer needed for the purpose for which it was withdrawn. The land is included in a